

Applicant's or agent's file reference C03113	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).	
International Application No. <b>PCT/AU2003/001472</b>	International Filing Date (day/month/year) 6 November 2003	Priority Date (day/month/year) 7 November 2002
International Patent Classification (IPC) or national classification and IPC <b>Int. Cl. 7 C04B 41/63, G01N 33/28</b>		
Applicant <b>NAWKAW HOLDINGS B.V. et al</b>		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 21 May 2004	Date of completion of the report 9 June 2004
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  <b>JAMES DZIEDZIC</b> Telephone No. (02) 6283 2495

**I. Basis of the report**

1. With regard to the **elements** of the international application:\*
- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,  
pages , as amended (together with any statement) under Article 19,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of
2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.  
These elements were available or furnished to this Authority in the following language which is:
- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:
- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished
4. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.
5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims 1-31	YES
	Claims	NO
Inventive step (IS)	Claims 1-31	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-31	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**

The invention is directed to a method of making a masonry structure or to a method of coating a masonry structure which tests the surface reactivity of the masonry so that this falls within ranges specified by either the "wet area method" (as defined) or by the "total absorption method" (as defined) and applying a tinting composition, by single application, to the masonry surface such that the tinting composition colours the exposed masonry surface so as to maintain the look, feel or texture of the masonry product.

Documents cited.

- (i) HOOKER, "Changing the face of masonry," Masonry Construction, December 1991, pp. 470-472.
- (ii) WO 98/29731 A (N.V. KEMA)
- (iii) "Exterior Wood Stains & Varnish with Resydrol," Coatings World, March 1999 (online).
- (iv) WO 01/60930 A (FRIEL et. al.)
- (v) US 6218012 B (ROTA et. al.)

Document (i) discloses colour matching of masonry walls such that the colour of the new work matches that of the original is virtually the same. No disclosure of surface reactivity or to its testing by the defined tests is made.

Document (ii) discloses measuring the quality of a porous material such as concrete by determining the distribution of water in the porous material. This test however does not disclose the "wet area method" (as defined) or the "total absorption method" (as defined). The preferred test is by NMR.

Document (iii) discloses specific tinting compositions for applying to masonry.

Document (iv) discloses various prepaints for architectural coatings.

Document (v) discloses primerless coating compositions for applying to masonry.

Novelty

Since no document individually discloses all of the features of the present invention the invention must be considered as being novel.

Inventive Step

Document (i) is considered as being the closest document in that the final product maintains the look, feel or texture of the original masonry product and is applied by single application. Documents (iii) to (v) all give examples of coating formulations suitable for applying to masonry. Document (ii) defines testing of porous materials but not for the specific process of colour matching by single application. Also the test used is not the same as that of the present invention. In view of this it would not have been obvious to combine document (ii) with documents (i), or (iii) to (v). In view of this the invention is considered as having an inventive step.

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference C03113	<b>FOR FURTHER ACTION</b>	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).
International Application No.  PCT/AU2003/001472	International Filing Date (day/month/year) 6 November 2003	Priority Date (day/month/year)  7 November 2002
International Patent Classification (IPC) or national classification and IPC  Int. Cl. <sup>7</sup> C04B 41/63, G01N 33/28		
Applicant  NAWKAW HOLDINGS B.V. et al		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 21 May 2004	Date of completion of the report 9 June 2004
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  <b>JAMES DZIEDZIC</b> Telephone No. (02) 6283 2495

**I. Basis of the report****1. With regard to the elements of the international application:\***

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,  
pages , as amended (together with any statement) under Article 19,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

**4. ☐ The amendments have resulted in the cancellation of:**

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

**5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims 1-31	YES
	Claims	NO
Inventive step (IS)	Claims 1-31	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-31	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**

The invention is directed to a method of making a masonry structure or to a method of coating a masonry structure which tests the surface reactivity of the masonry so that this falls within ranges specified by either the "wet area method" (as defined) or by the "total absorption method" (as defined) and applying a tinting composition, by single application, to the masonry surface such that the tinting composition colours the exposed masonry surface so as to maintain the look, feel or texture of the masonry product.

Documents cited.

- (i) HOOKER, "Changing the face of masonry," Masonry Construction, December 1991, pp. 470-472.
- (ii) WO 98/29731 A (N.V. KEMA)
- (iii) "Exterior Wood Stains & Varnish with Resydrol," Coatings World, March 1999 (online).
- (iv) WO 01/60930 A (FRIEL et. al.)
- (v) US 6218012 B (ROTA et. al.)

Document (i) discloses colour matching of masonry walls such that the colour of the new work matches that of the original is virtually the same. No disclosure of surface reactivity or to its testing by the defined tests is made.

Document (ii) discloses measuring the quality of a porous material such as concrete by determining the distribution of water in the porous material. This test however does not disclose the "wet area method" (as defined) or the "total absorption method" (as defined). The preferred test is by NMR.

Document (iii) discloses specific tinting compositions for applying to masonry.

Document (iv) discloses various prepaints for architectural coatings.

Document (v) discloses primerless coating compositions for applying to masonry.

Novelty

Since no document individually discloses all of the features of the present invention the invention must be considered as being novel.

Inventive Step

Document (i) is considered as being the closest document in that the final product maintains the look, feel or texture of the original masonry product and is applied by single application. Documents (iii) to (v) all give examples of coating formulations suitable for applying to masonry. Document (ii) defines testing of porous materials but not for the specific process of colour matching by single application. Also the test used is not the same as that of the present invention. In view of this it would not have been obvious to combine document (ii) with documents (i), or (iii) to (v). In view of this the invention is considered as having an inventive step.